

PLANNING COMMISSION MINUTES

November 6, 2002

CALL TO ORDER:

Chairman Vlad Voytilla called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Vlad Voytilla, Planning Commissioners Bob Barnard, Gary Bliss, Eric Johansen, Dan Maks, and Scott Winter. Planning Commissioner Shannon Pogue was excused.

Senior Planner Kevin Snyder, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Voytilla, who presented the format for the meeting.

VISITORS:

Chairman Voytilla asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATION:

Senior Planner Kevin Snyder indicated that there were no communications.

OLD BUSINESS:

Chairman Voytilla opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or disqualifications in any of the hearings on the agenda. There was no response.

1 **CONTINUANCES:**

2

3 **A. TA 2002-0001 – CHAPTER 60 (Special Requirements),**
4 **CHAPTER 20 (Land Uses),**
5 **CHAPTER 40 (Permits and Applications), AND CHAPTER 90**
6 **(Definitions) TEXT AMENDMENTS**

7 This is a request for Planning Commission approval of a City-initiated
8 series of amendments to sections of the Development Code for the
9 implementation of regulations and standards for wireless
10 communications facilities. Wireless communication facilities include,
11 but are not limited to, cellular phone towers, antenna panels and arrays,
12 and satellite dishes. The amendments to Chapter 60 will create a new
13 section, and will modify the special use regulations for height
14 exemptions. The new section in Chapter 60 will establish applicability
15 standards, exemptions, development standards including but not limited
16 to standards for height, setbacks, and design, special study
17 requirements, temporary use standards, collocation standards and
18 standards for abandoned facilities. Text amendments to Chapter 20
19 (Land Uses), Chapter 40 (Applications), and Chapter 90 (Definitions) are
20 also proposed to support the implementation of the proposed regulations
21 and standards for wireless communications facilities. Amendments to
22 Chapter 20 (Land Uses) are necessary to address the permitted,
23 conditional and prohibited use status of wireless communication
24 facilities in established zoning districts. Amendments to Chapter 40
25 (Applications) are necessary to identify the applicable permit
26 applications for the different types of wireless communication facilities
27 specified in the new section of Chapter 60. Amendments to Chapter 90
28 (Definition) are necessary to define key terms specific to wireless
29 communication facilities identified in the new section of Chapter 60.

30

31 Chairman Voytilla observed that staff has requested a continuance of
32 this application.

33

34 Commissioner Barnard **MOVED** and Commissioner Maks
35 **SECONDED** a motion to continue TA 2002-0001 – Chapter 60
36 (Special Requirements), Chapter 20 (Land Uses), Chapter 40 (Permits
37 and Applications), and Chapter 90 (Definitions) Text Amendments to a
38 date certain of November 13, 2002.

39

40 Motion **CARRIED**, unanimously.

41

1 **NEW BUSINESS:**

2
3 **PUBLIC HEARINGS:**

4
5 **A. SUNRISE AT COOPER MOUNTAIN**

6 The following land use applications have been submitted for
7 development of a 69-unit single-family residential project. The subject
8 site is generally located east of SW 166th Avenue, south of Nora Road,
9 northwest of SW Cinnabar Court and SW 163rd Avenue. The site can be
10 specifically identified as Tax Lot 100 on Washington County Assessor's
11 Map 1S1-30DD; Tax Lot 300 on Washington County Assessor's Map
12 1S1-29CC and Tax Lot 800 on Washington County Assessor's Map 1S1-
13 29C. The site area is further identified as shown on the vicinity and
14 detail maps as provided hereto. The subject properties are zoned R-5
15 Urban Standard Density and together total approximately 15.8 acres in
16 size. Within the R-5 zone, single-family detached dwellings are
17 permitted outright and a request for Planned Unit Development (PUD)
18 is subject to Conditional Use Permit (CUP) approval. A request for
19 continuance has been received for the Planned Unit Development
20 (CUP2002-0004), the Tree Preservation Plan (TPP2002-0005) and
21 appeal of the Planning Director's decision on the subdivision (original
22 case file no. SB2002-0010, appeal case file no. APP2002-0012) and will
23 be heard by the Planning Commission on December 11, 2002.

24
25 **1. CUP 2002-0004 (SUNRISE AT COOPER MOUNTAIN –**
26 **PLANNED UNIT DEVELOPMENT)**

27 The applicant requests approval of a Planed Unit Development for 69
28 single-family residential lots with lot sizes varying from
29 approximately 3,600 square feet to approximately 15,000 square feet.
30 In addition, the applicant proposes 30 separate tracts of land
31 intended for the purpose of open space, tree preservation, water
32 quality and access. The proposed request for PUD would allow
33 variation to the site development standards of the R-5 zone found in
34 Section 20.05.50. of the Development Code. In taking action on the
35 proposed PUD request, the Planning Commission shall base its
36 decision on the CUP approval criteria for a PUD as listed in Section
37 40.05.15.3.C. of the Development Code and is subject to review of the
38 special condition criteria as listed in Section 40.05.15.3.D.

39
40 **2. TPP 2002-0005 (SUNRISE AT COOPER MOUNTAIN – TREE**
41 **PRESERVATION PLAN)**

42 The applicant requests Tree Preservation Plan approval. A portion
43 of the subject site area is located within a Significant Tree Grove,
44 specifically Grove No. NX1 according to the City's Significant Tree

Inventory. Pursuant to Section 40.75.15.1.A.3 of the Development Code, a Tree Preservation Plan (TPP) is required when development is proposed within a significant tree grove. The proposed development plan would remove several trees considered part of grove NX1 while retaining others. The Planning Commission will review the applicant's Tree Preservation Plan together with the overall development plan and shall base its decision on the Tree Preservation Plan approval criteria listed in Section 40.75.15.1.C.3 of the Beaverton Development Code.

Chairman Voytilla observed that the applicant has requested a continuance of these applications.

Commissioner Barnard **MOVED** and Commissioner Johansen **SECONDED** a motion to continue CUP 2002-0004 – Sunrise at Cooper Mountain Planned Unit Development Conditional Use Permit to a date certain of December 11, 2002.

Motion **CARRIED**, unanimously.

Commissioner Barnard **MOVED** and Commissioner Johansen **SECONDED** a motion to continue TPP 2002-0005 – Sunrise at Cooper Mountain Tree Preservation Plan to a date certain of December 11, 2002.

Motion **CARRIED**, unanimously.

B. TA 2002-0005 - TREE PLAN TWO THRESHOLD TEXT AMENDMENT

The proposed amendment will modify Section 40.90.15.2.A (Thresholds), and specifically, Section 40.90.15.2.A.3. Section 40.90.15.2.A.3 currently reads "Removal of five (5) or more Community Trees within one calendar year period on properties more than one half acre in size developed with a detached dwelling." The proposed amendment will delete the existing reference "developed with a detached dwelling" in Section 40.90.15.2.A.3. Chapter 90 (Definitions) of the Development Code defines a Community Tree as "a healthy tree of at least ten inches diameter breast height located on developed, partially developed, or undeveloped land, and does not include those trees identified as significant, historic, street, or conditioned trees, or trees within a Significant Natural Resource Area".

The proposed amendment described above will affect only those properties having a total area more than one-half (1/2) acre in size, and

1 containing Community Trees as defined by Chapter 90 (Definitions). A
2 decision for action on the proposed text amendment shall be based upon
3 approval criteria listed in Development Code Section 40.85.15.1.C.1-7.
4

5 Mr. Snyder presented the Staff Report, briefly described the purpose of
6 the proposed amendment and provided a brief history of this proposed
7 action, necessitated by the adoption of the new Development Code on
8 September 19, 2002, and submitted several documents, as follows:
9

- 10 • Staff Memorandum, dated November 5, 2002, providing an
11 Addendum to Staff Report for TA 2002-0005 (Tree Plan Two
12 Threshold Text Amendment) regarding Written Comment Letter
13 from Sister Barbara Jean Laughlin, Sisters of St. Mary of
14 Oregon; and
15
- 16 • Staff Memorandum, dated November 5, 2002, providing an
17 Addendum to Staff Report for TA 2002-0005 (Tree Plan
18 Threshold Text Amendment) regarding Written Comment Letter
19 from Roya Baradar, 9075 SW 155th Avenue.
20

21 Mr. Snyder further explained that the issue of the cutting of
22 Community Trees involves tree types that have not been defined
23 elsewhere by the City of Beaverton, such as Significant or Historic
24 Trees, and landscape trees, adding that community trees have been
25 defined by their actual size. Referring to Section 40.90.15.2.A.3, he
26 noted that with the removal of five or more of these trees, a tree plan
27 application is required. He pointed out that this is only applicable to
28 properties that are developed with an attached dwelling, adding that
29 this imposes limitations on this particular threshold, raising concerns
30 on the part of staff as it relates to the Comprehensive Plan. Observing
31 that this amendment would increase the applicability of this particular
32 threshold throughout the City of Beaverton, adding that this would not
33 affect those properties with an existing dwelling, which are already
34 regulated. Concluding, he requested consideration of the text
35 amendment and recommended approval of the application to the City
36 Council, including any necessary modifications, and offered to respond
37 to questions.
38

39 Observing that the scope of the proposed change is very narrow,
40 involving a very small portion of the Development Code, Commissioner
41 Johansen emphasized that this action does not involve other elements
42 of the Tree Plan and issues unrelated to this particular provision.
43

1 Agreeing that the scope or focus as it relates to this issue is very nar-
2 row, Mr. Snyder pointed out that this is intentional on the part of staff.

3
4 Assistant City Attorney Naemura noted that it is his understanding
5 that this particular amendment brings this particular Development
6 Code section back into conformance with the legislative intent.

7
8 Mr. Snyder stated that this proposal involves an effort to revert to the
9 original intent of the new Development Code, specifically to correct
10 what had not been realized through the approval process with regard
11 to wider applicability, adding that this also more closely matches the
12 Comprehensive Plan Policy.

13
14 **PUBLIC TESTIMONY:**

15
16 **WIM VELSink** observed that he is slightly confused with this
17 proposal, specifically whether this action would be applicable to
18 properties greater than ½ acre in size that include dwellings.

19
20 Chairman Voytilla advised Mr. Velsink that this proposal involves
21 properties greater than ½ acre in size that do not include dwellings.

22
23 Commissioner Moks clarified that this action applies to any property
24 greater than ½ acre in size that has Community Trees, regardless of
25 whether any buildings are located on the property.

26
27 Observing that his property is greater than ½ acre in size and includes
28 his home, Mr. Velsink expressed his opinion that it is unfair to impose
29 these regulations upon the existing owner of property. Noting that he
30 recognizes the desire of the City of Beaverton to preserve the beauty
31 and aesthetic value of these trees, he pointed out that two potential
32 solutions to address this issue are available. He mentioned that
33 compensation to the property owners for the potential loss of value of
34 their property is difficult, and suggested the possibility of grand
35 fathering in the existing owners, making these regulations applicable
36 only for future owners. He urged the Commissioners to consider the
37 potential impact upon the owners, reiterating that the existing
38 property owners of certain property should be excluded or that more
39 information with regard to criteria should be provided.

40
41 Chairman Voytilla clarified that this action would specifically involve a
42 property owner attempting to remove more than five trees per year
43 from their property without going any type of development action.

1 Mr. Snyder advised Mr. Velsink that this is correct under the context
2 of the current Development Code, adding that if this text amendment
3 is applied it could be applied to land development activity in the
4 future. He explained that while the existing Development Code
5 language does not prohibit the removal of these trees, it does impose a
6 requirement with regard to a permitting process for the removal of
7 trees.

8
9 Chairman Voytilla discussed the concepts with regard to Community
10 Trees, observing that they are often considered a community asset
11 helpful in marketing the property. He pointed out that many
12 variations occur throughout the development process, noting that Mr.
13 Velsink had expressed his opinion that this action would create what
14 he considers to be an unfair burden on property owners, and requested
15 clarification of how this action would potentially devalue the property.

16
17 Mr. Velsink expressed his opinion that the result of the proposed regu-
18 lations might mean that a developer could locate fewer or no additional
19 homes on the property, thereby decreasing his income potential.

20
21 Commissioner Barnard noted that the current Development Code
22 addresses property greater than ½ acre in size with an attached
23 dwelling, advising Mr. Velsink that the proposed text amendment
24 strikes the words “with an attached dwelling”, and addresses property
25 greater than ½ acre in size whether it includes a dwelling or not.

26
27 Mr. Velsink questioned why he had been notified if the Development
28 Code already covered his property.

29
30 Commissioner Barnard explained the notification process, emphasizing
31 that State law requires this notification.

32
33 Mr. Velsink stated that it would be helpful for the City of Beaverton to
34 advise those property owners that are already covered.

35
36 The public portion of the Public Hearing was closed.

37
38 Mr. Snyder provided clarification with regard to the notification
39 procedure, observing that this information had been mailed out to
40 approximately 1,200 property owners based upon Washington County’s
41 assessment records owning properties greater than ½ acre in size,
42 whether the property included dwellings are not, emphasizing that
43 there had been actual notification coverage to all potentially affected
44 properties.

Commissioners Barnard, Bliss, Johansen, Winter, and Maks and Chairman Voytilla all expressed their support of the proposed text amendment.

Commissioner Barnard **MOVED** and Commissioner Bliss **SECONDED** a motion to recommend that the City Council to **APPROVE** TA 2002-0005 – Tree Plan Two Threshold Text Amendment, based upon the testimony, reports and exhibits, and new evidence presented during the Public Hearing on the matter, and upon the background facts, findings and conclusions found in the Staff Report dated October 30, 2002, Memorandum dated October 29, 2002, and two additional Memorandums submitted this evening, both of which are dated November 5, 2002,

Motion **CARRIED**, by the following vote:

AYES: Barnard, Bliss, Johansen, Maks, Voytilla, and Winter.

NAYS: None.

ABSTAIN: None.

ABSENT: Pogue.

APPROVAL OF MINUTES:

Minutes of the meeting of October 16, 2002, submitted. Commissioner Maks **MOVED** and Commissioner Winter **SECONDED** a motion that the minutes be approved as written.

Motion **CARRIED**, unanimously, with the exception of Commissioners Barnard and Bliss, who abstained from voting on this issue.

MISCELLANEOUS BUSINESS:

Commissioner Bliss discussed last week's meeting with regard to the Planning Director's Interpretation (PDI) addressing the applications with regard to the Salem Communications Tower. He expressed his opinion that staff and the Planning Director needs to reconsider this issue, observing that he had determined that it does not apply as intended by the Staff Report. He further explained that this basically applied to adding antennas to an existing tower, rather than the installation of a new tower, suggesting that further interpretation or discussion might be necessary.

1 Chairman Voytilla suggested that Mr. Naemura should review this
2 issue with staff.

3

4 Mr. Naemura agreed that further review and discussion of this
5 situation would be appropriate.

6

7 The meeting adjourned at 7:33 p.m.